



Extending BSF Jurisdiction

For Prelims: [Border Security Force \(BSF\)](#), [Chief Justice of India](#), [Passports Act, 1967](#), [Indian Penal Code \(IPC\)](#), [Ministry of Home Affairs](#), [Supreme Court](#).

For Mains: Impact of extending the [Border Security Force's](#) jurisdiction on the federal structure and also the internal security of the country.

Source: [IE](#)

Why in News?

Recently, the [Supreme Court](#) clarified that the Centre's notification of 2021, which expands the [Border Security Force's \(BSF's\)](#) jurisdiction in Punjab **from 15 to 50 km**, only grants the BSF the authority to act concurrently in preventing specific offenses within these limits and it **does not diminish the investigative authority of the state police**.

- In 2021, the Punjab government moved the Supreme Court challenging the Centre's decision that expanded the BSF's jurisdiction.

What is the Centre's Notification About Extending BSF's Jurisdiction?

- **About :**
 - The notification **replaced a 2014 order under the [BSF Act, 1968](#)**, which also covered the States of Manipur, Mizoram, Tripura, Nagaland and Meghalaya.
 - It also specifically mentioned the two newly created Union Territories- [J&K and Ladakh](#) **along with Assam, West Bengal and Punjab**.
 - The violations for which the BSF carries out search and seizure include **smuggling of narcotics, other prohibited items, illegal entry of foreigners and offences punishable under any other Central Act** among others.
 - After a suspect has been detained or a consignment seized within the specified area, the **BSF can only conduct "preliminary questioning"** and has to hand over the suspect to the local police within 24 hours.
 - The BSF **does not have the powers to prosecute crime suspects**.
- **Special Powers of BSF:**
 - In all border states, there is a power under the **BSF Act, 1968** to extend the jurisdiction of BSF so far as offences are considered. **Since 1969**, Gujarat has had 80 kms. In some states it was less. **Now it is uniform 50 kms**. And that would merely mean that with regard to some offences **under Criminal Procedure Code, 1973, Passport (Entry into India) Act, 1920 and Passport Act, 1967 etc**, BSF will also have jurisdiction.
 - **Local police will continue to have jurisdiction**. BSF is also concurrently conferred with the jurisdiction.

What are the Different Issues Involved in the Extension of Jurisdiction?

- **Larger Issues:**
 - **Public Order vs Security of State:** [Public order and Police](#) which connotes public peace, safety and tranquility, is primarily the responsibility of a **State Government (Entry 1 and Entry 2 of State list respectively)**.
 - However, when there is a serious public disorder which threatens **the security or defence of the State or of the country itself (entry 1 of Union list)**, the situation becomes a matter of concern for the Union Government also.
 - **Weakening Spirit of Federalism:** Without obtaining the concurrence of the state government, the notification amounts to encroachment on the powers of the states.
 - The Punjab Government has asserted that this notification is Centre's encroachment under the guise of security or development.
 - **Affecting Functioning of BSF:** Policing in the hinterland is not the role of a border guarding force, **rather it would weaken the capacity of the BSF** in discharging its primary duty of guarding the international border.
- **Issues Specific to Punjab:**
 - For 50 km, they have the concurrent power along with the state police to exercise every power over every cognisable offence under [Indian Penal Code \(IPC\)](#).
 - When extended from 15 to 50 in a relatively small state like Punjab, all the major cities come under that.
 - So far as other states are considered — **Gujarat and Rajasthan** — Gujarat **has marsh land in a substantial portion**. There it can be reasonable to extend it because no major urban centres come within it. **Similarly in Rajasthan, there is desert.**

Constitutional Viewpoint on Deployment of Armed forces in States

- Under **Article 355**, the Centre can deploy its forces to protect a state against “external aggression and internal disturbance,” **even when the state concerned does not requisition the Centre's assistance** and is reluctant to receive central forces.
- In the case of a state's opposition to the deployment of armed forces of the Union, the right course for the Centre is to first issue directives under Article 355 to the state concerned.
- In the event of the state not complying with the directive of the Central government, the Centre can take further action under [Article 356 \(President's Rule\)](#).

What is BSF?

- The BSF was raised in **1965**, after the [India-Pakistan war](#).
- It is one of the [seven Central Armed Police Forces](#) of the Union of India under the administrative control of the Ministry of Home Affairs (MHA).
 - Other Central Armed Police Forces are: Assam Rifles (AR), Indo-Tibetan Border Police (ITBP), Central Industrial Security Force (CISF), Central Reserve Police Force (CRPF), National Security Guards (NSG) and Sashastra Seema Bal (SSB).
- The 2.65-lakh force is deployed along the Pakistan and Bangladesh borders.
 - It is deployed on Indo-Pakistan International Border, Indo-Bangladesh International Border, [Line of Control \(LoC\)](#) along with Indian Army and in [Anti-Naxal Operations](#).
- BSF has been defending [Sir Creek](#) in Arabian Sea and [Sundarban delta](#) in the [Bay of Bengal](#) with its state of art fleet of Water Crafts.
- It contributes dedicated services to the [UN peacekeeping Mission](#) by sending a large contingent of its trained manpower every year.

Way Forward

- **Consent of State is Desirable:** Given the security condition in India's neighbourhood, the existing relationship between the Union armed forces and the State civil authorities do not require any change.
 - However, before the Union Government deploys its armed forces, it is desirable that the

State Government should be consulted, wherever feasible.

- **State Becoming Self-Reliant:** Each State Government may work out, in consultation with the Union Government, short term and long-term arrangements for strengthening its Armed Police.
 - The objective will be to become largely self-reliant in the matter of Armed Police so that the assistance of the Union armed forces will be necessary only in cases of very severe disturbances.
- **Regional Arrangement:** A group of neighbouring States may, by consensus, have a standing arrangement for the use of the Armed Police of one another in case of need.
 - The **Zonal Council** would be the best forum for achieving consensus of the States within a zone for devising such an arrangement.

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims

Q. Department of Border Management is a Department of which one of the following Union Ministries? (2008)

- (a) Ministry of Defence
- (b) Ministry of Home Affairs
- (c) Ministry of Shipping, Road Transport and Highways
- (d) Ministry of Environment and Forests

Ans: (b)

Mains

Q1: Analyze the multidimensional challenges posed by external state and non-state actors, to the internal security of India. Also discuss measures required to be taken to combat these threats. **(2021)**

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